

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Dwayne Edwards,

Case No. 24-cv-115 (JRT/SGE)

Plaintiff,

v.

**REPORT & RECOMMENDATION**

Equifax Information Services LLC,

Defendant.

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On May 15, 2024, the Court entered an Order for a Settlement Conference. (Dkt. No. 18.) This Order also scheduled a status conference for October 25, 2024. (*Id.*) Plaintiff failed to appear at the October 25, 2024, status conference. On October 29, 2024, Plaintiff filed a Notice of Voluntary Dismissal. (Dkt. No. 33.) Thereafter, the Court scheduled a status conference for November 26, 2024. (Dkt. No. 34.) Plaintiff also failed to appear at the November 26, 2024, status conference. Plaintiff's failure to appear at both status conferences was unexcused.

On November 18, 2024, Defendant's counsel emailed a settlement status letter to the Court informing it that Plaintiff also failed to appear at his scheduled deposition on October 29, 2024, and that Plaintiff mentioned obtaining counsel. Despite Plaintiff's mention of counsel, he continued to sporadically negotiate settlement *pro se*, even after filing the voluntary dismissal. On November 27, 2024, the Court entered an Order to Show Cause. (Dkt. No. 36.) Specifically, the Court ordered Plaintiff to show cause as to why the case should not be dismissed pursuant to Federal Rule of Civil Procedure 41(b)

for his failure to litigate his claims. (*Id.*) The Court warned Plaintiff that failure to act by December 20, 2024, would result in a recommendation that the case be dismissed. (*Id.*)

That deadline has now passed, and Mr. Edwards has not filed a response nor communicated with the Court in any way. Accordingly, this Court now recommends that this action be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 F. App'x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

### **RECOMMENDATION**

Based on the foregoing, and all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** under Federal Rule of Procedure 41(b) for failure to prosecute.

Dated: January 10, 2025

s/ Shannon G. Elkins  
SHANNON G. ELKINS  
United States Magistrate Judge  
District of Minnesota

**NOTICE**

**Filings Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in LR 72.2(c).